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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,228	12/19/2005	Lars Ake Naslund	027651-286	6147
21839	7590	01/08/2009	EXAMINER	
BUCHANAN, INGERSOLL & ROONEY PC POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404				FAYYAZ, NASHMIYA SAQIB
ART UNIT		PAPER NUMBER		
2856				
NOTIFICATION DATE			DELIVERY MODE	
01/08/2009			ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/561,228	NASLUND ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Nashmiya S. Fayyaz	2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 28 October 2008.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) 5 and 19 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-4,6-18 and 20 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I in the reply filed on 10/28/08 is acknowledged. The traversal is on the ground(s) that the subject matter of the two groups is not well-known. This is not found persuasive because the argument is not understood and prior art that may be applicable to one embodiment is not necessarily applicable to the other embodiment and vice versa such as the embodiment of group II does not require a rectangular sensor and an circular sensor may be used.

The requirement is still deemed proper and is therefore made FINAL.

Claims 5 and 19 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 10/28/08. NOTE: claim 5 has been included in Group II as it properly depends on claim 19 which is in Group II.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 1-4, 6-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe et al-US Patent # 5,830,339. As to claims 1 and 20, Watanabe et al disclose a gas concentration detector (1) including a rectangular/polygonal shaped sensor (sensing section 23 having a rectangular cross-section) through a wall and through opening (at ring 130) of a housing 11, first component (insulator 120), second component (holder 10) provided with a first sealing surface (facing powder 12) and an opening (through which sensing section 23 extends and into housing 11), where the first sealing surface being adapted to be tightly sealed to a second sealing surface facing the housing when pressing together the sensor holder and the housing, see col. 1, lines 27-38 and

fig. 1. Further, Watanabe et al. fail to specify a specific rectangular-shaped envelope surface. However, given the depiction of fig. 1, it would have been obvious to one of ordinary skill in the art at the time of the invention to have indicated that the portion of holder around flange section 21 as an envelope surface since it is surrounding the flange section of the rectangular shaped sensor section. As to claim 2, note the portion of the holder 10 surrounding the tapered portion 212 of the flange section 21 which is widened towards the surface opposite the sealing surface with first sealing means (powder 12). As to claim 3, note second sealing means (packing 120). As to claim 4, packing 120 appears to be a ring but the powder is not a ring. However, since the powder is providing sealing and is in the form of a ring, it would have been obvious to one of ordinary skill in the art at the time of the invention to have substituted the compressible powder with a compressible ring since the purpose of the powder is to compress and seal the gaps which is known to be accomplished by a compressible ring as well. As to claims 6 and 7, note fig. 5 which depicts the opening in the housing as circular at chamber 129 (note also col. 1, line 24) and the groove (taper of housing) to receive the packing 120. As to claim 8, note the first portion with a groove (internal opening) through which sensor 23 is extending. As to claim 9, the opening is rectangular where the length appears to be greater than the depth of the groove. As to claims 10-12, note ring 130 for fastening along with covers 131/132/133 and 15. As to claims 13 and 17, a screw

joint is not described. However, usage of screw as a fastener is old and very well-known and therefore usage of the screw to fasten together the covers and housing would have been obvious to one of ordinary skill in the art at the time of the invention to have used to secure the various parts together. As to claim 14, the tapered portion of the holder 10 could be designated conical. As to claims 15 and 18, since the housing is cylindrical, the packing 120 is probably an O-ring.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 18 appears to be repetitive of claim 15.

***Response to Arguments***

8. Applicant's arguments with respect to claims 1-4, 6-18 and 20 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The additional prior art cited on PTO-892 includes Sheets

who discloses a circular sensor with first and second components and Frackelton et al who disclose a rectangular sensor with a holder having first and second components.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nashmiya S. Fayyaz whose telephone number is 571-272-2192. The examiner can normally be reached on Tuesdays and Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on 571-272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/N. S. F./  
Examiner, Art Unit 2856  
/Hezron Williams/  
Supervisory Patent Examiner, Art Unit 2856